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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,344	05/10/2002	Yoshiki Wakizaka	037267-0142	6436
22428	7590	01/19/2006		
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER FOX, JAMAL A	
			ART UNIT 2664	PAPER NUMBER

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,344

Applicant(s)

WAKIZAKA, YOSHIKI

Examiner

Jamal A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 1, 3, 7 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 4-6, 8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 10/031,344.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/6/05 & 7/22/05
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Other: See Continuation Sheet

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Continuation of Attachment(s) 6). Other: IDS: 3/4/05, 2/12/04, 2/13/02 & 1/18/02.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2, 4, 6, 8 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Benveniste et al. (U.S. Patent No. 5,513,379).

Referring to claim 2, Benveniste et al. discloses a cellular system (Fig. 3 and respective portions of the spec.) including:

At least two base stations (Fig. 3 ref. sign 300 and respective portions of the spec.);

a mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.) making communication with said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) in multicode CDMA (CDMA, col. 1 lines 55-67); and

an host station (Fig. 3 ref. sign 305 and respective portions of the spec.) controlling (control, col. 6 lines 12-25) communication made between said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) and said mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.),

characterized in that when one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) becomes saturated (interference, col. 6 lines 40-50), said mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.) makes

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communication in multi-code CDMA (CDMA, col. 1 lines 55-67) through a channel (channel, col. 6 lines 30-50) of other base station(s), and

said mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.) when channels of a base station (Fig. 3 ref. sign 300 and respective portions of the spec.) with which said mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.) makes communication are saturated (interference, col. 6 lines 40-50), stops (blocking, col. 6 lines 44-50) a part of said communication, and makes the thus stopped part of said communication with other base station(s) (Fig. 3 ref. sign 300 and respective portions of the spec.).

Referring to claim 4, Benveniste et al. discloses a cellular system (Fig. 3 and respective portions of the spec.) including at least two base stations (Fig. 3 ref. sign 300 and respective portions of the spec.);

a mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.) making communication with said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) in multicode CDMA (CDMA, col. 1 lines 55-67); and

an host station (Fig. 3 ref. sign 305 and respective portions of the spec.) controlling communication made between said base stations and said mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.),

characterized in that

one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.), an receipt of a request of starting communication in n codes (n is an integer equal to or greater than 2) from said mobile station (Fig. 3 ref. sign 301 and respective

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portions of the spec.), checks whether channels are short, and transmits the result of checking to said host station (Fig. 3 ref. sign 305 and respective portions of the spec.), said host station (Fig. 3 ref. sign 305 and respective portions of the spec.) receives said result from said one of said base stations, and, if channels for n codes can be secured (reserved, col. 4 lines 1-54), instructs said one of said base station (Fig. 3 ref. sign 300 and respective portions of the spec.) to start making communication, whereas if channels for m codes (m is an integer smaller than n ($m < n$)) can be secured (reserved, col. 4 lines 1-54), instructs said one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) to start making communication in m codes and further instructs other base station(s) (Fig. 3 ref. sign 300 and respective portions of the spec.) to start making communication in $(n-m)$ codes, and

said mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.) makes communication with said one of said base stations in m codes, and further makes communication with said other base station(s) (Fig. 3 ref. sign 300 and respective portions of the spec.) in $(n-m)$ codes.

Referring to claim 6, Benveniste et al. discloses the cellular system as set forth in claim 4 or 5, wherein said one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) and said other base station(s) (Fig. 3 ref. sign 300 and respective portions of the spec.) have an adaptive array antenna (Fig. 2 ref. signs 201, 202, 203, 204 and 205 and respective portions of the spec.).

Referring to claim 8, Benveniste et al. discloses a method of making communication in multi-code CDMA (CDMA, col. 1 lines 55-67) where a mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.) makes communication with base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) in multi-code CDMA (CDMA, col. 1 lines 55-67) and an host station (Fig. 3 ref. sign 305 and respective portions of the spec.) controls (control, col. 6 lines 12-25) communication made between said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) and said mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.),

characterized by the step of, said mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.), when one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) becomes saturated (interference, col. 6 lines 40-50), making communication in multi-code CDMA (CDMA, col. 1 lines 55-67) through a channel (channel, col. 6 lines 30-50) of other base station(s),

wherein said mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.), when channels (channel, col. 6 lines 30-50) of a base station (Fig. 3 ref. sign 300 and respective portions of the spec.) with which said mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.) makes communication are saturated (interference, col. 6 lines 40-50), stops (blocking, col. 6 lines 44-50) a part of said communication, and makes the thus stopped (blocking, col. 6 lines 44-50) part of said communication with other base station(s).

Referring to claim 10, Benveniste et al. discloses a method of making communication in multi-code CDMA (CDMA, col. 1 lines 55-67) where a mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.) makes communication with base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) in multi-code CDMA (CDMA, col. 1 lines 55-67) and an host station (Fig. 3 ref. sign 305 and respective portions of the spec.) controls (control, col. 6 lines 12-25) communication made between said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) and said mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.),

characterized by the steps of:

one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.), on receipt of a request of starting communication in n codes (n is an integer equal to or greater than 2) from said mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.), checking whether channels are short, and transmitting the result of checking to said host station (Fig. 3 ref. sign 305 and respective portions of the spec.),

said host station (Fig. 3 ref. sign 305 and respective portions of the spec.) receiving said result from said one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.), and, if channels (channel, col. 6 lines 30-50) for n codes can be secured (reserved, col. 4 lines 1-54), instructing said one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) to start making communication, whereas if channels (channel, col. 6 lines 30-50) for m codes (m is an

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integer smaller than n ($m < n$)) can be secured (reserved, col. 4 lines 1-54), instructing said one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) to start making communication in m codes and further instructing other base station(s) (Fig. 3 ref. sign 300 and respective portions of the spec.) to start making communication in $(n-m)$ codes, and

said mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.) making communication with said one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) in m codes, and further making communication with said other base station(s) (Fig. 3 ref. sign 300 and respective portions of the spec.) in $(n-m)$ codes.

Referring to claim 11, Benveniste et al. discloses the method as set forth in claim 10, further comprising the steps of:

said one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) stopping (blocking, col. 6 lines 44-50) multi-code communications made with a mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.) only in part of codes, when said one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) receives a request of starting communication from another mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.) and judges that channels (channel, col. 6 lines 30-50) is short for satisfying said request, and transmitting a request to said host station (Fig. 3 ref. sign 305 and respective portions of the spec.) to make communication with other base station(s) (Fig. 3 ref. sign 300

and respective portions of the spec.) in codes equal to the stopped (blocking, col. 6 lines 44-50) codes;

said host station (Fig. 3 ref. sign 305 and respective portions of the spec.), on receipt of said request to make communication with other base station(s) (Fig. 3 ref. sign 300 and respective portions of the spec.), instructing a base station (Fig. 3 ref. sign 300 and respective portions of the spec.) other than said one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) to start making communication with said one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) in codes equal to said stopped (blocking, col. 6 lines 44-50) codes; and

said mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.) stopping communication made with said one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) in said part of codes, and starting making communication with said base station (Fig. 3 ref. sign 300 and respective portions of the spec.) other than one of said base stations (Fig. 3 ref. sign 300 and respective portions of the spec.) in codes equal to said stopped (blocking, col. 6 lines 44-50) codes.

Referring to claim 12, Benveniste et al. discloses the method as set forth in claim 10 or 11, wherein said one of said base station(s) (Fig. 3 ref. sign 300 and respective portions of the spec.) and said other base station(s) (Fig. 3 ref. sign 300 and respective portions of the spec.) make communication with said mobile station (Fig. 3 ref. sign 301 and respective portions of the spec.) in multi-code CDMA (CDMA, col. 1 lines 55-

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67) through an adaptive array antenna (Fig. 2 ref. signs 201, 202, 203, 204 and 205 and respective portions of the spec.).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 5 recites the limitation "claim 1" in --the first line of the claim--. There is insufficient antecedent basis for this limitation in the claim.

Conclusion

6. **Any response to this action should be mailed to:**

Commissioner for Patents
P.O. Box 1450
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or faxed to:

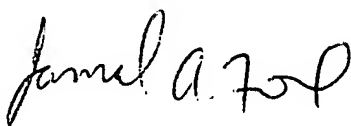
(571) 273-8300, (for formal communications intended for entry)

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (571) 272-3143. The examiner can normally be reached on Monday-Friday 6:30 AM - 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to 2600 Customer Service whose telephone number is (571) 272-2600.

A handwritten signature in black ink, appearing to read "Jamal A. Fox".

Jamal A. Fox

A handwritten signature in black ink, appearing to read "Wellington Chin".

WELLINGTON CHIN
SUPERVISORY PATENT EXAMINER

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